INFO LOG-00 EEB-00 AID-00 CA-00 CEA-01 CIAE-00 CTME-00
INL-00 DODE-00 ITCE-00 DOTE-00 PDI-00 EXME-00 E-00
FAAE-00 UTED-00 VCI-00 FRB-00 H-00 TEDE-00 INR-00
JUSE-00 LAB-01 CDC-00 VCIE-00 NSAE-00 ISN-00 NSCE-00
OES-00 OMB-00 EPAU-00 CAEX-00 GIWI-00 MA-00 ISNE-00
SP-00 SSO-00 SS-00 NCTC-00 FMP-00 CBP-00 BBG-00
EPAE-00 IIP-00 DRL-00 G-00 SCA-00 SAS-00 FA-00
SEEE-00 /002W

P 021230Z NOV 09
FM AMCONSUL MUMBAI
TO SECSTATE WASHDC PRIORITY 7535
INFO ALL SOUTH AND CENTRAL ASIA COLLECTIVE
AMCONSUL CHENNAI PRIORITY
AMCONSUL MUMBAI PRIORITY
AMEMBASSY NEW DELHI PRIORITY
AMCONSUL KOLKATA PRIORITY
DEPT OF AGRICULTURE USD FAS WASHINGTON DC
DEPT OF AGRICULTURE WASHINGTON DC
DEPT OF COMMERCE WASHINGTON DC
DEPT OF TREASURY WASHINGTON DC

UNCLAS MUMBAI 000422

DEPT PLEASE PASS TO USTR

E.O. 12958: N/A
TAGS: EAGR ECON ETRD IN
SUBJECT: GOOD CHEERS FOR FOREIGN WINE IN MAHARASHTRA: STATE SPECIAL FEE LOWERED

REF: 08 MUMBAI 0050

¶1. Summary: In August 2009, the Maharashtra government significantly lowered the 200 percent "special fee" for foreign wines imported into the state. Post recently verified that the special fees are now just 44 percent or less ad valorem, depending on the value of the foreign wine imported. The 200 percent duty had been assessed in addition to federal import duties of 150 percent, putting most foreign wines beyond the reach of even wealthy consumers, and was meant to match the state's excise duty for domestic wines brought in from other Indian states. Local wines made in Maharashtra continue to enjoy exemptions from this excise tax, while domestic wine manufactured outside Maharashtra is still taxed at 150 percent and 200 percent of the manufacturing cost depending on whether it is local or foreign branded. According to Maharashtra's Excise Commissioner I.S. Chahal, this discriminatory treatment of domestic out-of-state wine will continue until the tax for Maharashtra-made wine is reciprocally lowered in Karnataka, the other major wine producing state in India. Until this happens, foreign wines will enjoy a duty advantage over domestic, out-of-state wine brought into Maharashtra. End Summary.

¶2. In a recent discussion, I.S. Chahal, the Commissioner of Excise for the Government of Maharashtra, informed Assistant U.S. Trade Representative (USTR) for South and Central Asia Michael Delaney that the special fee assessed on foreign wine was changed from a flat rate to a three-slab inverse ad-valorem structure on July 22. Since August, all foreign wines costing less than INR 900 (about USD 19) have had to pay a special fee of INR 400 (about USD 8.50) per one-liter bottle imported into the state. The special fee for foreign wine costing between INR 901 (about USD 19) and INR 6,000 (USD 128) is slightly lower, at INR 300 (about USD 6.40) per bottle, while expensive foreign wine costing over INR 6,001 (USD 128) will be taxed at five percent of the manufacturing cost. He admitted that the new duty structure was devised and developed by the European Commission which, along with Moet Hennessey, asked the government to lower import duties for foreign wines in Maharashtra. The Maharashtra government accepted their recommendations and implemented the suggested tax structure without making any changes, he said. These new taxes for foreign wine in Maharashtra replace the old flat tax of 200 percent of the assessable value (manufacturing cost) which were judged as unfair and unjust by foreign wine manufacturers.

Chahal admitted that the high tax rate for imported wine encouraged a grey market in the state.

¶3. Chahal explained that since wine accounts for a mere one percent of total excise revenues, the revision in the import tax rate would not really result in any significant revenue loss for the state government. He also noted most foreign wines are priced over INR 900 (about USD 19) and very few Indian wines fall within the same price range. Therefore, charging lower taxes for importing expensive wine will not harm Maharashtra wine producers since they do not compete in the premium market. Nevertheless, to mollify the local wine producers, the government ultimately raised the special fee from INR 300 (about USD 6.40) to INR 400 (about USD 8.50) per bulk liter in the final regulations, Chahal added. (Note: Maharashtra wine manufacturers pay zero excise duty until December 2021 after which they have to pay duty at the rate of 100 percent of the manufacturing cost. End Note.) Chahal also claimed that he told other officials in the state and central government that continued WTO litigation was not worth the meager revenues this special fee raised in the state.

¶4. Chahal also argued that the new state import duties placed foreign wine on a better footing compared to domestic wine produced outside Maharashtra. He noted that Maharashtra and Karnataka were the only two major wine producing states in India. Quid-pro-quo excise duty increases have led to exorbitant price hikes for out-of-state domestic wines in both states. Chahal said that the Maharashtra government was willing to lower the excise duties for out-of-state wine if the Karnataka government reciprocated in its treatment of wine produced in Maharashtra. He said that he had written a letter to the Karnataka Excise Commissioner assuring him that Maharashtra would adopt the same excise duty structure for Karnataka-produced wine that Karnataka adopts for Maharashtra-made wine. Until then, all foreign-branded and local-branded wine manufactured in Karnataka and brought into Maharashtra will have to pay 200 percent and 150 percent of the manufacturing cost as excise tax, respectively.

¶5. Comment: The duty revision for imported wine in Maharashtra provides some relief to the foreign wine market who had petitioned against the rise in state import tax which, they believed, widened the gap between foreign and locally-made wine. Even with the new duty structure, foreign wine remains a costly alternative to home-grown Maharashtra wine. However, ironically, it appears to now enjoy a pricing advantage compared to out-of-state domestic wine, at least as long as the inter-state price and tax war continues. The success of the European wine trade association in rolling back the special duties shows that in matters where states have discretion, such as excise taxes, the most effective strategy is to deal with the relevant state bodies in a constructive and persistent way. In many cases, the central government does not have the authority to force changes in state policies. End Comment.

FOLMSBEE